

April 10, 1939.

The Federal Land Bank of Berkeley,
Oakland, California.

Attention: Mr. L. H. Hill,
Arizona Loan Division.

Gentlemen:

We are in receipt of your request for an opinion interpreting Chapter 62, Session Laws of 1939 (Senate Bill 129). With respect to this law you ask the following questions which we will answer in order:

- (1) Does this Act apply to irrigation, drainage, conservation or similar district taxes as well as to state, county and school district taxes?
- (2) The Act reads: "...shall be exempt from all interest..." Does this exemption apply only to the charge of 10 per cent per annum accruing from the delinquent date of each installment, or does it also apply to the flat interest or penalty of 4 per cent accruing immediately upon delinquency of an installment.
- (3) In order to obtain the exemption of interest provided under this Act, is it necessary that all delinquent taxes be paid, or can delinquencies for one or more years be paid exclusive of interest and subsequent taxes remain delinquent?
- (4) In order to pay delinquent taxes under the provisions of this Act, is it necessary to also pay first installment of 1939 Assessment which becomes payable September 4, 1939 and delinquent November 6, 1939?
- (5) Can the balance of delinquent taxes now set up under one of the ten year deferred payment plans be paid under this Act exclusive of all interest?

Answering your first question, it is our opinion that the exemptions provided by Chapter 62, Session Laws of 1939 are applicable to interest on taxes levied by irrigation districts, drainage districts, electrical districts, and agricultural improvement districts.

Answering your second question we call attention to the fact that the flat four per cent penalty referred to in your letter is no longer collectible in any case under Arizona law. See *Kitchel v. Gadsen Hotel Co.*, 23 P. (2d) 939 (Ariz.). The exemption is therefore applicable solely to the interest charge of ten per cent per annum provided by Section 17 of Chapter 103, Arizona Session Laws 1931.

We believe that your third question is answered by the following quotation from Chapter 62, Session Laws 1939:

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"Exemption shall also be allowed on single half-year payments within the time set forth above, but the amount of such exemption in the case of state, county, and school district taxes shall not exceed the sum of two hundred dollars for any such half-year period."

This provision however allowing exemption on single half-year payments is limited to some extent in its operation by the last two sentences of Chapter 62. For example, if real property has been sold to the state at tax sale, the general owner in order to receive the exemption of interest would have to pay the principal sum of all taxes for all years covered by the particular tax sale; in other words he would have to redeem the property by paying all such taxes.

Answering your fourth question it is our opinion that it will not be necessary to pay the first instalment of 1939 taxes in order to receive the exemptions provided by the act. The act makes no requirement that such 1939 taxes be paid as a condition precedent to receiving such exemptions from payment of interest.

Answering your fifth proposition we are of the opinion that at the balance of delinquent taxes now set up under one of the ten year deferred payment plans may be paid under this new Act without interest, provided the balance of all such installments are paid at the same time in full.

In conclusion we desire to call attention to the fact that Chapter 62, Session Laws of 1939 is not now in effect because same was not enacted as emergency legislation. Assuming that there is no referendum petition filed against the legislation during the period provided by law, same will go into effect after the elapse of ninety days from March 13, 1939 when the legislative session came to a close.

Trusting this opinion may be of some assistance in the matter, I am

Very truly yours,

JOE CONWAY,
Attorney General.

LIN CRANE, Jr.,
Assistant Attorney General.

EARL ANDERSON,
Special Assistant
Attorney General.

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